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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,042	07/21/2005	Graham Robertson	920602-99890	9184
23644 7590 10/20/2009 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER GONZALEZ, MADELINE				
ART UNIT 1797		PAPER NUMBER		
NOTIFICATION DATE 10/20/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/543,042

Applicant(s)

ROBERTSON, GRAHAM

Examiner

MADELINE GONZALEZ

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-10 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In response to applicant's amendment dated August 10, 2009

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 9, 18, 22 and 24 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al. (U.S. 2002/0023883) [hereinafter Adams].

With respect to **claims 1, 18 and 24**, Adams discloses a vibrating machine 200, as shown in Fig. 18, having a screen 190, as shown in Fig. 17A, over which solids flow in a specified direction (see paragraph 0061), the screen having:

- a support structure 191 defining a rectangular opening and woven wire cloth of orthogonal warp and weft wires (see paragraph 0034);
- wherein the cloth is bonded to the support structure 191 and extends in a tensioned state across the opening;
- the cloth has rectangular openings in the weave, as shown in Fig. 8, having a greater number of warp wires 144, 146, per unit length than there are weft wires 142 per unit length; and

- the cloth has generally square openings in the weave, as shown in Fig. 4A, the warp wires 106, have a greater cross-sectional size than the weft wires 102, as shown on Fig. 5A;
- the orientation of the cloth is such that the warp wires 104, 106, 144, 146, extend across the width (i.e. shorter dimension) of the rectangular opening and the weft wires 102, 142 extend across the length (i.e. longer dimension) of the rectangular opening, as shown in Figs. 4 and 8;
- wherein the weft wires of the cloth are aligned with the specified direction of solids flow over the screen (see paragraph 0061).

With respect to **claim 2**, Adams discloses wherein the rectangular opening in the support structure 191 includes a plurality of similarly dimensioned, similarly orientated and regularly arranged smaller rectangular openings or windows, formed by a lattice of struts criss-crossing the larger opening, and the cloth is bonded to the lattice struts as well as the boundary of the larger opening (see paragraph 0057).

With respect to **claim 3**, Adams discloses wherein the warp wires 154, 156, are also parallel to the width dimension (i.e. the shorter sides) of the smaller rectangular openings, as shown in Fig. 11.

With respect to **claims 9 and 22**, Adams discloses wherein the wires are of circular cross-section (see paragraph 0058).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 10, 19-21 and 23 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (U.S. 2002/0023883).

Claims 6-8, 10, 19-21 and 23 include dimensional limitations, such as cross-sectional area of the warp wires relative to the weft wires, and the size of the wires.

Adams teaches the warp wires, such as 106, having a cross-sectional area greater than the weft wires 102, as shown in Fig. 5A (see paragraph 0063). Adams **lacks** the specific percentages of the cross-sectional area of warp wires relative to the weft wires, and the specific size of the wires.

The specific dimensional limitations claimed by applicant, are considered to be nothing more than a choice of engineering skill, choice or design that a person having ordinary skill in the art would have found obvious during routine experimentation based among other things, on desired accuracy, since the courts have held that where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than a prior art device, the claimed device was not patentably distinct from the prior art device (see *In re Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (FED. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984)).

Response to Arguments

Applicant's arguments with respect to claims 1-3, 6-10 and 18-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MADELINE GONZALEZ** whose telephone number is

(571)272-5502. The examiner can normally be reached on M, T, Th, F- 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/
Primary Examiner, Art Unit 1797

Madeline Gonzalez
Patent Examiner
October 13, 2009